


MHDH050013942017		Presented On : 01.11.2017
		Registered On : 01.11.2017
		Decided On : 06.04.2026
		Duration : 08 Y. 05 M. 05 D.
<u>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,</u> <u>(COURT No. 2), SAKRI, DHULE.</u> (Presided over by: M. R. Gadhave) Judgment delivered on: 06 th Day of April, 2026 Reg. Cri. Case No. 161/2017 Exhibit No.: - 106		
FIR NO. 49/2017 - Pimpalner Police Station		
Prosecution	:	State of Maharashtra Through P.I. of Pimpalner Police Station Taluka Sakri, District Dhule.
Represented by	:	Shri. A. D. Jadhav, A.P.P. for the State
Accused	:	1. Ashok Vasant Gawali, Age - 44, Occupation – Vegetable Seller, 2. Nandukumar Ashok Gawande, Age - 23, Occupation - Vegetable Seller, 3. Chandrakant Ashok Gawande, Age – 26 years, Occupation – Vegetable Seller,
Represented by	:	Shri. M. B. Salunkhe
Date of Offence		14.06.2017
Date of FIR		14.06.2017
Date of Chargesheet		01.11.2017

Date of Framing Charges	28.08.2018
Date of commencement of evidence	18.07.2022
Date on which judgment is reserved	09.03.2026
Date of Judgment	06.04.2026
Date of Sentencing Order, if any	--

Details of Accused

Rank of accused	Name of the accused	Date of Arrest	Date of release	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C.
1.	Ashok Vasant Gawali,	15.06.2017	15.06.2017	Sections 143, 149, 325, 323, 504, 506 read with Section 135 of the Mumbai Police Act	Acquittal	---	----
2.	Nandukumar Ashok Gawande,						
3.	Chandrakant Ashok Gawande,						

J U D G M E N T

(Delivered on: 06th Day of April, 2026)

The accused No. 1 to 3 are facing trial for the offence punishable under Sections 143, 149, 325, 323, 504, 506 of the Indian Penal Code and Section 135 of the Mumbai Police Act. (Hereinafter for the sake

of brevity called as "IPC").

Brief facts of the prosecution case are as under:

02] Informant Jeevan Ramesh Kshirsagar is a resident of Gopalnagar, Pimpalner and earns his livelihood by cultivating vegetables and selling mangoes. On 14/06/2017 at about 6:00 a.m., while the informant was selling mangoes near the State Bank of India at Pimpalner, all the accused persons namely Ashok Gawli, Chandrakant Gawli (nephew of Ashok Gawli), Nandkishore Gawli, Harshal Gawli, one Babu (full name not known) and the younger son of Ashok Gawli came there together. It is alleged that all the accused suddenly rushed towards the informant, abused him in filthy language and started assaulting him without any provocation. They pushed him to the ground and kicked him, particularly on his right leg causing a serious injury below the knee. The accused also assaulted him on his stomach, chest and head. During the incident, the informant's brother-in-law Rajendra and other persons intervened and tried to pacify the situation upon which the accused fled from the spot. Thereafter, the informant was taken to Suhri Hospital for medical treatment. Subsequently, he lodged the report, on the basis of which the present crime came to be registered.

03] On the basis of report, C.R. No. 49/2017 was registered for offences punishable under Sections 143, 149, 325, 323, 504, 506 of the Indian Penal Code and Section 135 of the Mumbai Police Act. The matter was taken up for investigation by Investigating Officer who proceeded to record the statements of relevant witnesses, prepared the spot panchnama, received injury certificate and upon completion of the investigation filed chargesheet in the court.

04] My learned predecessor has framed charge at Exh.15 against the accused. The charge was read over and explained to the accused in vernacular to which they pleaded not guilty and claimed to be tried. The prosecution thereafter examined total eight witnesses in support of the case. An opportunity under Section 313 of the Criminal Procedure Code (*hereinafter for the sake of brevity called as Cr. P. C.*) at Exhibit No. 53 to 55 and 97 to 99 was granted to the accused persons to explain the incriminating circumstances in which they denied the entire prosecution case. The accused led no defence evidence.

05] Heard learned A.P.P. for the prosecution and learned advocate for accused. The points for determination along with my findings thereon are as under:

Sr. No.	Points for determination	Findings
1.	Does the prosecution prove that on 14/06/2017 at about 6:00 a.m. near State Bank, Pimpalner all the accused formed an unlawful assembly with a common object and thereby committed an offence punishable under Section 143 of the Indian Penal Code ?	No
2.	Does the prosecution prove that all accused in prosecution of the common object of such unlawful assembly voluntarily caused grievous hurt to the informant and thereby committed an offence punishable under Section 325 read with Section 149 of the Indian Penal Code ?	No
3.	Does the prosecution prove that the all accused in furtherance of their common object voluntarily caused simple hurt to the informant and thereby committed an offence punishable under Section 323 read with	No

	Section 149 of the Indian Penal Code ?	
4.	Does the prosecution prove that the all accused intentionally insulted the informant by using abusive language with intent to provoke breach of peace and thereby committed an offence punishable under Section 504 read with Section 149 of the Indian Penal Code ?	No
5.	Does the prosecution prove that the accused criminally intimidated the informant by threatening him, and thereby committed an offence punishable under Section 506 read with Section 149 of the Indian Penal Code ?	No
6.	Does the prosecution prove that at the relevant time and place, the accused acted in contravention of the prohibitory order promulgated under Section 37(1) of the Mumbai Police Act and thereby committed an offence punishable under Section 135 of the said Act ?	No
7.	What Order ?	Accused persons are acquitted.

:: REASONS ::

AS TO POINTS NOS. 1 to 3: - (Unlawful Assembly and grievous hurt)

06] At the outset, panch (PW-1) has turned hostile and has not supported the prosecution case. Hence, the spot panchanama loses corroborative value to the extent.

07] The case of the prosecution mainly rests upon the testimony of

informant (PW-2). Though in his examination in chief he has supported to the prosecution case and alleged that all accused assaulted him and caused grievous injury to his right leg. However, in his cross-examination, he admitted that the alleged incident took place in a crowded vegetable market whereabout 50 shops were running till evening. However, he failed to disclose the names of any independent witnesses present at the spot. This omission assumes significance as no independent witness from such a busy locality has been examined by the prosecution.

08] Prosecution further examined Nitin (PW-3) who is a relative of the informant and initially supported the prosecution. However, in cross-examination he categorically admitted that he came to Court along-with the informant and was instructed by him regarding what to deposed. He further admitted in cross-examination that he did not know what had actually happened and reached the spot after the incident. Thus, his evidence becomes unreliable and appears to be tutored and therefore can not be safely relied upon.

09] Rajendra (PW-4) and Sapana (PW-5) who were material witnesses as per prosecution story. However, they have not supported the case of the prosecution. Further, Rajendra (PW-4) who stated by the informant to be carried him to the hospital has not supported to the prosecution on this aspects as well.

10] Harshal (PW-7) another eye witness and relative of the informant has also supported the prosecution in examination in chief. However, his testimony suffers from material inconsistencies. He admitted that the incident occurred on the road and there was free space near the

shops. On the other hand, investigating officer (PW-8) deposed that the spot was a free space. This contradiction regarding the place of occurrence creates the doubt about the prosecution version. Moreover, though Harshal (PW-7) deposed that many persons had gathered at the time of incident, no independent witness has been examined.

11] The medical evidence of the Doctor (PW-6) shows that the informant sustained a comminuted fracture on his right leg which is grievous in nature. However, the Doctor (PW-6) has clearly admitted that such injury can be caused due to an accident. There are also discrepancies in the injury certificate such as inconsistencies in number of injuries and absence of identification of marks and proper x-ray details. Therefore, the medical evidence does not conclusively connect the injuries with the alleged assault by the accused.

12] Further the investigating officer (PW-8) admitted that though the spot was a bustling area, he did not record the statements of any independent witnesses. This omission creates serious doubts about the fairness of investigation.

13] The learned APP argued that the testimony of informant (PW-2) and eye witness Harshal (PW-7) clearly establishes the presence of the accused at the spot. It is further argued that the injury sustained by the informant is duly proved through the medical evidence of Doctor (PW-6) and therefore the offences alleged against the accused stand proved. On this basis, it is urged that the accused deserves to be convicted.

14] Per contra, the learned advocate for the accused submitted that

the prosecution case suffers from serious infirmities. It is argued that the informant (PW-2) was not immediately treated by any local doctor nor referred to Doctor (PW-6) and no referral letter or MLC is placed on record. It is further argued that there is inconsistencies regarding the age and nature of injury as doctor described it as acute fracture which may correspond to injury of 2 to 7 days. Where as the history suggests a recent injury. It is also pointed out that the Doctor (PW-6) mentioned multiple injuries whereas the informant (PW-2) primarily deposed about injury only to his right leg thereby creating contradiction. It is further argued that the prosecution has failed to specify which accused caused which injury. Lastly, it is contended that all material witnesses are interested and related witnesses and in the absence of independent corroboration their evidence can not be safely relied upon.

15] It is true that evidence of injured witness carries great evidentiary value. However, such evidence must still reliable and inspire confidence. In the present case, though informant (PW-2) and Harshal (PW-7) have deposed about the presence of the accused, both are closely related and their testimonies are not free from doubt. Nitin (PW-3) has admitted that he was tutored. Rajendra (PW-4) and Sapana (PW-5) have not supported to the prosecution. No independent witness from the crowded market area has been examined which creates a serious doubt in the prosecution case.

16] As regards medical evidence, though Doctor (PW-6) has proved that the informant sustaining a grievous injury. However, there is no satisfactory explanation regarding delay in medical treatment or absence of any referral record which raises further doubt.

17] The contention of the defence regarding absence of specific role attributed to each accused also deserves consideration. The prosecution has made general allegations without clearly establishing individuals overt acts. In cases involving unlawful assembly, common object must be proved convincingly, which is lacking in the present case.

18] Thus, although the prosecution has established that the informant (PW-2) sustained injuries. However, it has failed to prove beyond reasonable doubts that such injuries were caused by the accused in the manner alleged. In view of this material contradiction, omission and lack of independent corroboration despite availability, this Court is of the view that the prosecution has failed to prove its case beyond reasonable doubts. The benefit of doubt, therefore, must go to the accused. Hence, I answer Point Nos. 1 to 3 in the negative.

AS TO POINT NOS. 4 & 5:-

19] The prosecution has alleged that the accused intentionally insulted the informant and also criminally intimidated him. In the present case, informant (PW-2) has made a general statement in his examination in chief that the accused abused him. However, he has not stated exact words of abuse allegedly used by the accused. His evidence is completely silent as to the nature of the abusive language and whether the same was sufficient to provoke breach of peace.

20] Moreover, none of the other witnesses examined by the prosecution have stated anything about the accused abusing or threatening the informant. There is no whisper in the evidence of any witnesses regarding any specific abusive words or threats given by the accused.

21] In the present case, the evidence on record is vague and lacks material particulars. There is no clear, cogent and reliable evidence to show that the accused intentionally insulted or criminally intimidated the informant. Therefore, the prosecution has failed to prove the ingredients of offences under Section 504 and 506 r/w 149 of IPC beyond reasonable doubts. Hence, I answer Point Nos. 4 & 5 in the negative.

AS TO POINT NO. 6:-

22] The prosecution has alleged that the accused acted in contravention of the prohibitory order promulgated under Section 37(1) punishable under Section 135 of Mumbai Police Act. In the present case, the prosecution has not produced on record any such order issued by the competent authority such as District Magistrate or Collector prohibiting assembly of persons at the relevant time. There is no documentary evidence to show the existence, content or duration of such prohibitory order.

23] Further, no witness has deposed about the specific order in force, its promulgation or that the accused had knowledge of such order. In absence of proof of that order itself, its communication and its applicability to the spot of incident, the essential ingredients of the offence are not established. Therefore, the prosecution has failed to prove that the accused contravened any lawful order in force at the relevant time. Hence, I answered Point No. 6 in the negative.

AS TO POINT NO. 7:-

24] In view of the foregoing discussion and findings on the all the points, this Court holds that the prosecution has failed to prove the charges against the accused beyond reasonable doubt. The evidence on records suffers from material inconsistencies, lack of independent corroboration and

failure to establish essential ingredients of the alleged offences. Hence, the accused are entitled to benefit of doubt. Accordingly, all the accused deserve to be acquitted of the offences charged against them. Hence, I answered to Point No. 7, I pass the following order;

::O R D E R::

1)	Accused No.1 Ashok Vasant Gawali (A-1) , accused No. 2. Nandukumar Ashok Gawande (A-2) and accused No. 3. Chandrakant Ashok Gawande (A-3) are hereby acquitted of the offence punishable under Sections 143, 149, 325, 323, 504, 506 of the Indian Penal Code, 1860 and Section 135 of the Mumbai Police Act vide section 248 (1) of the Code of Criminal Procedure, 1973.
2)	Bail and bonds of the accused are cancelled.
3)	The accused persons shall furnish their Personal Recognition Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) and one surety in the like amount vide section 437-A of the Code of Criminal Procedure, 1973.

SD/-

Sakri, Dhule.
Date: 06.04.2026.

(M. R. Gadhawe)
Judicial Magistrate First Class,
(Court No.2), Sakri, Dhule.

APPENDIX**List of Prosecution /Accused/ Court witnesses****A) Witness list of Prosecution -**

Rank	Name of Witness		Exhibit
PW-1	Popat Vishnu Pagare	Spot Panch	35
PW-2	Jeevan Ramesh Kshirsagar	Informant	40
PW-3	Nitin Rajendra Ekhande	Witness	44
PW-4	Rajendra Pandit Sasale	Witness	46
PW-5	Sapana Rajendra Sasale	Witness	47
PW-6	Dr. Prashant A. Sonawane	Medical Officer	77
PW-7	Harshal Gulab Jadhav	Witness	85
PW-8	Pravin Damodar Amrutkar	Investigating Officer	91

B) Witness list of Accused /Defence- Nil**C) Court Witness- Nil****Prosecution /Accused/Defence/Court Exhibit/Material Objects****A) Prosecution Exhibit -**

Sr. No.	Particulars of documents	Exh. No.
01.	Signed on spot panchnama	36/ PW-1
02.	Complaint	41/ PW-2
03.	FIR	42/PW-2
04.	Injury Certificate	78 & 79 /PW-6

04.	Letters dated 02/06/2017 and 22/07/2017 for obtaining medical certificate	92 & 93/PW-8
05.	Injuries certificates	94 to 96 /PW-8

B) Accused/Defence Exhibit - Nil

C) Court Exhibit -

Sr. No.	Particulars of documents	Exhibit No.
01.	Charge	15
02.	Statement of accused persons	16 to 18
03.	Statement of accused persons under section 313 of Cr. P. C.	53 to 55 and 97 to 99

D) Material Objects- Nil.

Sakri, Dhule.
Date: 06.04.2026.

SD/-
(M. R. Gadhave)
Judicial Magistrate First Class,
(Court No.2), Sakri, Dhule.

:- CERTIFICATE:-

I certify that the contents of this PDF File are word to word as per Original Judgment /Order .

Name of the Steno :- H.B.Pile

Name of the Court :- Judicial Magistrate First Class, (Court No.2),
Sakri.

Signed on Judgment :- 06.04.2026

PDF Uploading Date :- 06.04.2026

Sd/- xxx

Stenographer(III).